

REMARKS

This response is offered in reply to the Office Action of April 21, 2004. A petition and fee for a three (3) month time extension are enclosed.

Applicant acknowledges and appreciates the indicated allowability of the subject matter of claims 3-5, 9, 10, 24 and 25.

On page 2 of the office action, claims 1, 2, 12-23, and 26-28 are rejected under the judicially created doctrine of obviousness type double patenting in view of claims 1, 2, 4, 7, 9-14, 17 and 18 of US Patent 6 543 191.

Applicant disagrees with this rejection. The claims of the '191 patent do not disclose or suggest a stairway comprising a pair of laterally spaced apart elongated stringers adapted to be disposed between levels of the building and a plurality of integral riser surfaces and integral tread surfaces extending between the stringers so as to form steps. The '191 patent discloses a base having steps and residing on the ground, concrete, gravel pad or other support when the base is placed adjacent a building or structure.

Reconsideration and withdrawal of the rejection of claims 1, 2, 12-23, and 26-28 is requested.

On page 5, claims 1 and 6-8 are rejected under 35 USC 102(b) by the Schmidt patent.

Applicant has amended claim 1 in a manner believed to distinguish over the Schmidt patent which does not disclose the features of amended claim 1 and 6-8.

Reconsideration and withdrawal of the rejection of claims 1, and 6-8 is requested.

On page 5, claims 29-32 are rejected under 35 USC 102(e) by the Birch patent.

Applicant has amended claims 29 and 32 in a manner believed to distinguish over the Birch patent which does not disclose the features of amended claims 29-32.

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Reconsideration and withdrawal of the rejection of claims 29-32 is requested.

On page 6, claim 11 is rejected under 35 USC 103(a) in view of the Schmidt patent.

This rejection is believed to be in error. In particular, the examiner admits that Schmidt does not disclose a gusset as recited in claim 11. The examiner speculates on such feature being a "design choice" without any support in the art, such speculation amounting to a hindsight analysis of claim 11.

Reconsideration and withdrawal of the rejection of claim 11 is requested.

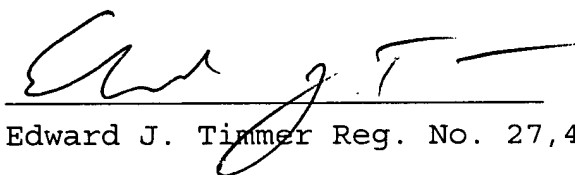
Applicant has added new claim 33, which is believed allowable.

Applicant believes the pending claims are in condition for allowance, and action to that end is requested.

Applicant encloses an IDS for the examiner's consideration.

The Commissioner is authorized to charge any fee for new claim 33 and the IDS to my deposit account 20-1124.

Respectfully submitted,



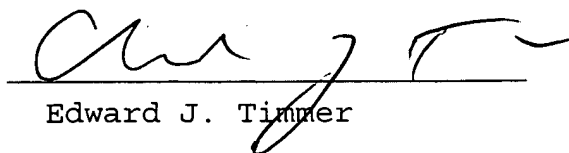
Edward J. Timmer Reg. No. 27,402

enclosure: IDS & Postal card

Customer Number:  
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CERTIFICATE OF MAILING

I hereby certify that this correspondence and enclosures are being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents  
P.O. Box 1450, Alexandria, VA 22313-1450, on October 21, 2004.



Edward J. Timmer